

**IN THE CHANCERY COURT
FOR WASHINGTON COUNTY, TENNESSEE
AT JONESBOROUGH**

BOBBY MacBRYAN GREEN, §
PLAINTIFF / PETITIONER, §
v. §
JODI JONES, §
HOWELL SHERROD, §
BETTY ANN POLAHA, and §
MARY LEE JONDAHL, §
DEFENDANTS / RESPONDENTS. §

Civil Action No. 41049

MOTION TO CONSIDER UNOPPOSED

NOW COMES the plaintiff, Bobby MacBryan Green, and moves the Court to hear and consider his pending motions(s) unopposed at the 2 November 2011 hearing by enforcing the provisions of Rule 5.01.B, Local Rules of the First Judicial Circuit :

LOCAL RULE 5.01, CIVIL MOTIONS

Opposition to Motions. If a motion is opposed, a response to the motion must be filed. The response shall be in writing and shall state with particularity the grounds for the opposition. If no opposition to the motion is filed, the motion will be considered unopposed. Responses to motions, including any opposing affidavits, depositions or briefs or any matter being presented in opposition to the motion, must be filed and furnished to opposing counsel at least two business days in advance of the hearing.

In support of this motion, Plaintiff would respectfully show unto the Court that :

1. Pursuant to the above Rule, the plaintiff is entitled to possession of any

response for “at least two (2) business days in advance of the hearing.” If the defendants intend to oppose the motion(s), they have defaulted on their explicit obligation to respond to the plaintiff’s *Motion to Alter or Amend*, filed and served on 8 September 2011; and have also defaulted on their explicit obligation to respond to the *Motion for a Supplemental Complaint* embodied (pursuant to Rule 7.02, Tennessee Rules of Civil Procedure) in the *Notice of Hearing* filed and served on 20 October 2011. Plaintiff avers that he has received no response whatsoever regarding these matters.

2. Plaintiff avers that the crucial deadline for the defendants’ response occurred less than three days before the scheduled 2 November 2011 hearing in this matter, and it was therefore impossible to file and serve this motion with the customary five day notice. Based upon such good cause which is apparent from the record and the Rules, the plaintiff ex parte moves the Court pursuant to Rule 6.04(1), TN.R.Civ.P., to allow him to file at this time this *Motion to Consider Unopposed* and to allow him to present it at the 2 November 2011 hearing.

3. Failure to enforce the provisions of Local Rule 5.01.B will unfairly disadvantage the plaintiff, who has thoroughly set forth his position for advance perusal by the defendants.

This the 1st day of November 2011.

RESPECTFULLY SUBMITTED

Bobby MacBryan Green, MD
Petitioner/Plaintiff
404 Holly Street
Johnson City, Tennessee 37604
423.928.1219

Affidavit and Certificate of Service

STATE OF TENNESSEE
WASHINGTON COUNTY

Bobby MacBryan Green, after having been duly sworn and deposed, says : I am the Plaintiff/Petitioner in this matter. On this day I served a true and accurate copy of the attached MOTION TO CONSIDER UNOPPOSED upon counsel for the defendants :

Howell Sherrod, Jr.
SHERROD, GOLDSTEIN & LEE
249 East Main Street
Johnson City, TN 37604

by placing the same in an official depository of the U.S. Postal Service, first class, postage prepaid,

on this the 1st day of November 2011.

Bobby MacBryan Green
Plaintiff/Petitioner

STATE OF TENNESSEE
WASHINGTON COUNTY

Bobby MacBryan Green, with whom I am personally acquainted and who also produced trustworthy identification, personally appeared before me this day, and after being duly sworn, executed the above *Affidavit and Certificate of Service*. This the 1st day of November 2011.

Deputy Clerk and Master

